

OFFICE OF THE
PRESIDING DISCIPLINARY JUDGE
SUPREME COURT OF ARIZONA

MAR 01 2019

BY

FILED
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BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A MEMBER
OF THE STATE BAR OF ARIZONA,**

PDJ 2019-9008

JUAN M. MARTINEZ
Bar No. 009510

Respondent.

COMPLAINT

[State Bar Nos. 17-0624 & 18-0693]

Complaint is made against Respondent as follows:

GENERAL ALLEGATIONS

1. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona, having been first admitted to practice in Arizona on May 12, 1984.

COUNT ONE (File No. 17-0624/Arias)

2. On July 9, 2008, a duly empaneled grand jury returned a true bill against Jodi Arias for the Class 1 Felony of First Degree Murder of Travis Alexander.
3. On July 9, 2008, the State filed an Indictment initiating the Maricopa County Superior Court criminal case of *State v. Arias*, CR2008-031021. On November 6, 2008, the State filed an Amended Notice of Intent to Seek the Death Penalty.
4. At all times pertinent, Respondent was the sole prosecutor in the case.
5. During the extensive litigation of the case, the case received an extraordinary amount of coverage by a number of news organizations, reporters, media personalities and/or bloggers (hereinafter referred to collectively as "Media").
6. The phases of the *Arias* case occurred as follows:
 - a. From December 2012 - May 8, 2013 (Guilt Phase), the substantive trial occurred. The trial culminated in a jury finding that Ms. Arias was guilty of the crime charged;
 - b. From May 16, 2013 - May 23, 2013 (First Penalty Phase), the penalty phase of trial occurred to determine whether Ms. Arias would

receive the death penalty. The penalty phase ended in a hung jury.

Subsequently, the State decided to retry the penalty phase and new dates were set for the selection of a new jury and a retrial; and

c. From October 21, 2014 - March 5, 2015 (Second Penalty Phase), the retrial of the penalty phase occurred. Again, the case ended in a hung jury.

7. On April 13, 2015, the Court sentenced Ms. Arias to natural life in prison.

8. Ms. Arias has appealed from her conviction and sentence, and the appeal is pending.

9. Subsequent to the conclusion of the trial and penalty phases, Ms. Arias submitted a bar charge against Respondent. The misconduct alleged in this formal complaint centers on actions by Respondent before, during, and after the Second Penalty Phase, and during the State Bar's investigation of the bar charge.

Dissemination of Confidential Information

10. On April 8, 2013, the *Arias* Court issued orders that certain chambers hearings and "all bench conferences shall remain sealed not to be produced or

transcribed until the conclusion of the trial.” The Court also issued an order that “the parties shall not release to third parties any other documentation, audio or video recordings until the trial has concluded.” This order remained in place throughout the trial.

11. At times during the case, confidential information was leaked to the media. Determining the source of the leaks proved difficult and led to several Court proceedings and later investigations.

12. Between the First Penalty Phase and the Second Penalty Phase, Respondent met Jennifer Wood, a blogger who had attended much of the earlier phases of the *Arias* trial.

13. While Ms. Wood was not a paid media person, she blogged extensively about the *Arias* case as it was occurring, either with another blogger, Sharee Ruiz, under the name Trial Divas or later on her own.

14. Respondent was aware of Ms. Wood’s blogging activities.

15. Respondent and Ms. Wood began a friendship and sexual relationship shortly after meeting. That relationship continued through the Second Penalty Phase of the *Arias* case, and for several years thereafter.

16. Juror 17 was a juror in the Second Penalty Phase of the *Arias* trial. The public, media, and courtroom watchers were not privy to the names of the jurors.

17. On March 3, 2015, during the jury deliberation after the Second Penalty Phase, the *Arias* judge received two jury questions.

18. The Court convened a public hearing on March 3, 2015 at 1:11 pm and informed all counsel that the jury had reached an impasse and that the judge intended to read an Impasse Jury Instruction to the jury. The Court recessed the proceeding at 1:18 pm, reconvened the jury at 1:40 pm to read the Impasse Jury Instruction in open court, and then recessed the proceeding at 1:42 pm.

19. Later in the afternoon of March 3, 2015, the Court held a confidential hearing in the judge's chambers regarding Juror 17 and the two jury questions. During the in-chambers hearing, the Court informed the parties and victim representatives that there was one holdout juror and identified that the holdout juror as Juror 17.

20. At the end of the day on March 3, 2015, Respondent filed a Motion to Strike Juror Number 17 under seal.

21. That evening, Respondent told Ms. Wood that there was a holdout juror who was not deliberating. He provided her with additional information including that he had investigators or others looking at Juror 17's social media to attempt to locate information that might disqualify her from continuing the deliberation. Respondent provided Juror 17's name to Ms. Wood who then looked up Juror 17's Facebook page.

22. Respondent told Ms. Wood that if anyone found out that he had provided her with this information, he would be disbarred.

23. Also on that day, Ms. Wood called Tammy Rose at approximately 7:30 p.m. Tammy Rose was a media reporter who was assigned to cover the *Arias* proceedings. Ms. Rose had become Ms. Wood's friend and confidante during the *Arias* trial.

24. During the phone call, Ms. Wood described Juror 17's physical appearance to Ms. Rose which enabled Ms. Rose to identify Juror 17.

24. On March 4, 2015, the Court held an evidentiary hearing on the Motion to Strike Juror Number 17. When the Court denied the motion, Respondent filed a Motion to Reconsider which was also denied.

25. On March 5, 2015, the Court declared a mistrial because the jurors were deadlocked.

26. The media was eager to learn the identity of the holdout juror.

27. Juror 17's identity and picture were posted in the media, which resulted in a series of investigations regarding Juror 17. None of the subsequent investigations conclusively determined the source of the leak of Juror 17's identity.

28. Other than providing a physical description of Juror 17 to Ms. Rose, there is no conclusive evidence that Ms. Wood disclosed Juror 17's identity to anyone else.

Inappropriate Communications with Released Juror

29. Juror Number 3 was a juror during the Second Penalty Phase of the *Arias* trial.

30. On or about December 2, 2014, Juror 3 was dismissed from the jury.

31. Upon Juror 3's dismissal, the Court stated the following:

"Court: I'm going to dismiss you from further participation as a juror in this case. Thank you for your time and attention...I'll ask you not to talk about the facts. The admonition no longer applies to you. However, for a variety of reasons, I'm going to

ask you not to talk to anyone about the evidence that you have heard.”

32. Following Juror 3’s dismissal, Juror 3 obtained Respondent’s cell phone number from Ms. Wood and began communicating with Respondent by text messages and phone calls.

33. During their discussions, Respondent became cautious about discussing the *Arias* trial stating, in pertinent part, “[y]ou can’t get in trouble, but I can get in trouble” and “[j]ust don’t...use names. Don’t talk about...” or words to that effect.

34. Respondent also told Juror 3 that she could not get into trouble for communicating with him, but: “I could, just the way it looks” or words to that effect.

35. The phone calls and texts included Juror 3’s interest in beginning a sexual relationship with Respondent, Juror 3 sexting unsolicited nude photographs of herself, Juror 3’s invitation for Respondent to join her for lunch/dinner, the physical appearance of one of the jurors, Juror 3’s “read” on how two jurors may be leaning in the case and Juror 3’s compliments about Respondent’s book.

36. Respondent would ask Juror 3 “[h]ow do you feel about...” or “[h]ow do you think they’re feeling” in an attempt to determine how specific jurors might view evidence or aspects of the case.

37. Juror 3 engaged in one particular discussion with Respondent about a juror's perspective wherein Juror 3 explained that "[w]hen I was impaneled, it change[d] daily...So I don't – It's hard to say at this point."

38. In his initial written response to the State Bar's investigation, Respondent stated that Juror 3 called him after being released from the jury and "expressed an interest in meeting him for lunch or dinner. He politely declined. Their conversation was not sexual. She subsequently texted Mr. Martinez partially nude pictures of herself. Mr. Martinez stopped answering her calls and never joined her for lunch or dinner."

39. Respondent did not report any of the communications between himself and Juror 3 to the Court or opposing counsel.

Respondent's Deposition Testimony in the State Bar's Investigation

40. During his deposition, Respondent was asked whether he had ever engaged in a sexual relationship with Ms. Wood. Respondent denied ever engaging in a sexual relationship at any time with Ms. Wood. The testimony was false, and Respondent knew it was false.

41. During his deposition, Respondent was asked whether Ms. Wood had ever been to his house. Respondent testified that Ms. Wood had never been to his house. The testimony was false, and Respondent knew it was false.

42. During his deposition, Respondent was asked whether he had provided any confidential information to Ms. Wood about the *Arias* trial, in particular, the identity of Juror 17. Respondent testified that he did not provide Ms. Wood with any information regarding Juror 17. The testimony was false, and Respondent knew it was false.

43. During his deposition, Respondent was asked to describe the number, nature and content of his communications with Juror 3 after her dismissal. Respondent's testimony about the number of times they communicated, who initiated the communication, and how long the communication lasted was false, and he knew it was false.

44. By engaging in the above-referenced misconduct, Respondent violated Rule 42, Ariz. R. Sup. Ct.:

- a. ER 3.4(c) – Respondent knowingly disobeyed an obligation under the rules of a tribunal;

- b. ER 8.1(a) – Respondent, in connection with a discipline matter, knowingly made a false statement(s) of material fact;
- c. ER 8.4(c) – Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation; and
- d. ER 8.4(d) – Respondent engaged in conduct prejudicial to the administration of justice.

COUNT TWO (File No. 18-0693)

Marla Knox

45. [REDACTED] was a court reporter in the Maricopa County Superior Court and served as the court reporter during portions of the Maricopa County Superior Court case of *State v. Jodi Arias*, CR2008-031021.

46. At the beginning of her employment as a court reporter for Maricopa County, [REDACTED] supervisor informed her that certain individuals were flirtatious and warned her to avoid those individuals. Respondent was one of the individuals that she was warned to avoid.

47. During a number of hearings in the *Arias* case and the Court's morning calendar, Respondent frequently stared at [REDACTED] in ways that made her feel uncomfortable.

48. During the portions of the *Arias* case in which [REDACTED] served as a court reporter, Respondent frequently, sometimes daily, commented on [REDACTED]'s skirts, shoes and physical appearance. These remarks were unwelcome and made [REDACTED] feel uncomfortable. As she feared repercussion if the incidents were reported, [REDACTED] merely smiled or left the courtroom, when possible, in response to these comments.

49. At some point during the *Arias* case, Respondent's comments escalated in nature, and he began making comments to [REDACTED] like "I like the person that's in the skirt" and "I would like to see what is inside that skirt" or "I'd really like to see what's inside." These comments were unwelcome and made [REDACTED] feel uncomfortable.

50. Because of Respondent's comments, [REDACTED] arranged to switch times with another court reporter during some of the *Arias* proceedings, in order to avoid being near Respondent during his presentations.

51. When the court reporters' supervisor learned of the switched schedules, the supervisor told [REDACTED] and the other assigned court reporter to abide by the original schedule. The supervisor was unaware of the reason for the switch in the schedule.

52. After the conclusion of the Arias case, during a particular morning calendar before another judge, Respondent stared at [REDACTED] and said "Boy, this brings back some good memories" or words to that effect. Respondent then approached [REDACTED] and said "I really miss those skirts." These comments were unwelcome and made [REDACTED] feel uncomfortable.

Unprofessional Conduct at MCAO

53. In or around December 2017, the Maricopa County Attorney's Office ("MCAO") initiated an investigation regarding allegations of unprofessional conduct by Respondent.

54. The investigation included interviews of Respondent and approximately 30 MCAO employees regarding the alleged incidents. The allegations included making inappropriate comments, primarily to law clerks, which

were of a sexual nature, engaging in unwanted touching and making persistent unwelcome invitations to go to lunch or on a date.

55. The investigation resulted in several factual findings regarding Respondent's unprofessional conduct including, but not limited to, the following:

- a. In 2015, Respondent took [REDACTED] then a law clerk at MCAO, to lunch on a couple of occasions during which Respondent asked if she had a boyfriend. When she said that she did have a boyfriend, Respondent made a comment about putting a hit on the boyfriend so that he could have [REDACTED] all to himself. Respondent also stared at [REDACTED] in a way that made her feel like he was taking her clothes off with his eyes. As a result, [REDACTED] began hiding in the bathroom at work when she heard Respondent's voice in order to avoid Respondent;
- b. In 2015, Respondent told [REDACTED] then a law clerk at MCAO, that he wanted to climb her like a statue, or words to that effect. Respondent also invited [REDACTED] to go to Las Vegas with him. Respondent also told [REDACTED] that he could guess the color of her underwear at lunch. [REDACTED] was aware of

Respondent's inappropriate comments to [REDACTED] and agreed to tell [REDACTED]

when Respondent was present so that [REDACTED] could hide from Respondent;

- c. Between 2015 and 2016, Respondent stared at [REDACTED] then a law clerk at MCAO, to the point that [REDACTED] felt that Respondent was undressing her with his eyes;
- d. In 2014, Respondent took [REDACTED] then a law clerk at MCAO, to lunch approximately ten times and sat on [REDACTED]'s desk in her personal space. At lunch, Respondent told [REDACTED] very personal stories about his father, his first wife and the nude photographs and gifts that he received during the *Arias* trial. Respondent's unprofessional comments ultimately lead to her decision to hide from Respondent in the bathroom if she knew he was approaching in order to avoid further contact with him;
- e. Between 2016 and 2017, [REDACTED], then a law clerk at MCAO, was in Respondent's office when Respondent grabbed [REDACTED] above her waist to move her out of his way. During this same time frame, Respondent frequently stood too close and invaded [REDACTED] s personal space. Respondent also looked at female employees' chests and blatantly

looked them up and down as they walked away which resulted in some of the female law clerks ducking into cubicles or engaging in busy work in order to avoid Respondent;

- f. Between 2016 and 2017, Respondent touched [REDACTED], then a law clerk at MCAO, and another female law clerk's arms during conversations with them. When told that [REDACTED] gained 20 pounds in law school, Respondent looked [REDACTED] up and down then stated that he couldn't tell from looking at her now. Respondent also asked [REDACTED] how much she weighed;
- g. During 2017, Respondent touched law clerk [REDACTED] on her shoulder or back, commented on her appearance and looked her up and down, stared at her chest and looked down her shirt; and
- h. During her employment with MCAO, Respondent flirted with [REDACTED] by, among other things, asking her out for a date and telling her to leave her husband for him.

56. Respondent's unprofessional conduct was so prevalent that some of the female MCAO employees created a "JM shit list", an unwritten list of Respondent's unprofessional conduct with female employees.

57. Respondent's unprofessional conduct was unwelcomed by most of the female employees. The female employees did not report Respondent's conduct as most of them believed he was in a position of power at MCAO and were afraid of potential negative consequences.

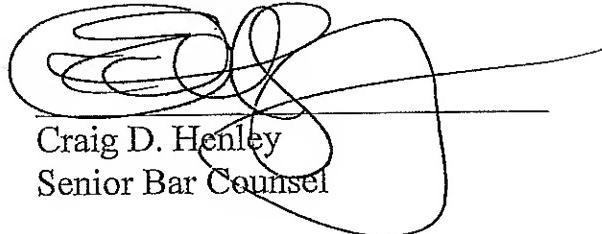
58. On April 27, 2018, the MCAO issued a written reprimand against Respondent finding that:

Over the course of several years, you engaged in inappropriate and unprofessional conduct towards several female MCAO employees and/or interns. This conduct included commenting on physical attributes, non-sexual but unwanted touching, sexually suggestive stares and unwelcome and persistent invitations to lunch, even after being told no. Your conduct was primarily directed towards interns during their brief internships, all of whom felt they could not complain because they feared it would negatively impact their careers and/or whether MCAO would hire them.

59. By engaging in the above-referenced misconduct, Respondent violated Rule 41(g), Ariz. R. Sup. Ct., by engaging in unprofessional conduct as defined by Rule 31(a)(2)(E), Ariz. R. Sup. Ct.

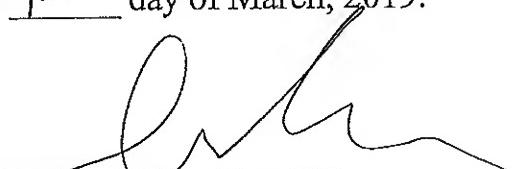
DATED this 1st day of March, 2019.

STATE BAR OF ARIZONA



Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 1st day of March, 2019.

by:

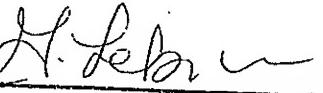


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**BEFORE THE ATTORNEY DISCIPLINE
PROBABLE CAUSE COMMITTEE
OF THE SUPREME COURT OF ARIZONA**

**IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,**

**JUAN M. MARTINEZ
Bar No. 009510**

Respondent.

No. 17-0624

PROBABLE CAUSE ORDER

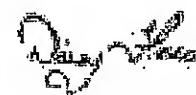
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on October 12, 2018, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation and Respondent's Response.

By a vote of 5-0-4¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 17-0624.

IT IS THEREFORE ORDERED pursuant to Rule 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 30 day of October, 2018.



Daisy Flores
Daisy Flores, Vice Chair
Attorney Discipline Probable Cause
Committee of the Supreme Court of Arizona

¹ Committee members Judge Lawrence Winthrop, Ben Harrison, Charles Muchmore and Walt Davis did not participate in this matter.

Original filed this *31st* day
of October, 2018, with:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266

Copy mailed this *31st* day
of October, 2018, to:

Donald Wilson Jr.
Broening Oberg Woods & Wilson, PC
P.O. Box 20527
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Respondent's Counsel

Copy mailed this *31st* day
of October, 2018, to:

Attorney Discipline Probable Cause Committee
Of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
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By: *Karen E. Caleys*

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BY

H. Libman

BEFORE THE ATTORNEY DISCIPLINE
PROBABLE CAUSE COMMITTEE
OF THE SUPREME COURT OF ARIZONA

IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,

JUAN M. MARTINEZ
Bar No. 009510

Respondent.

No. 18-0693

PROBABLE CAUSE ORDER

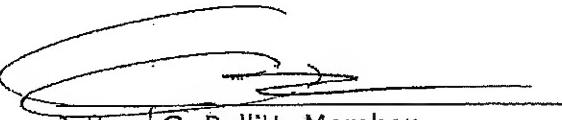
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on December 14, 2018, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation and Respondent's Response.

By a vote of 6-0-3¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 18-0693.

IT IS THEREFORE ORDERED pursuant to Rule 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 14 day of December, 2018.


Jeffrey G. Pollitt, Member
Attorney Discipline Probable Cause
Committee of the Supreme Court of Arizona

¹ Committee members Judge Lawrence Winthrop, Daisy Flores and Charles Muchmore did not participate in this matter.

Original filed this 21st day
of December, 2018, with:

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Copy mailed this 26th day
of December, 2018, to:

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Respondent's Counsel

Copy mailed this 26th day
of December, 2018, to:

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By: _____